

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2019

CORAM

THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.NO.32452 OF 2019

AND

W.M.P.NO.32769 OF 2019

I.Mahimai David

... Petitioner

vs.

The Additional Commissioner of Customs,
Chennai IV, Chennai.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari, to call for the records in respect of the impugned order dated 29.04.2019 passed by the respondent imposing a penalty of Rs.75,00,000/- (Rupees Seventy Five Lakhs only) u/s. 114 of the Customs Act 1962 and a further penalty of Rs.75,00,000/- (Rupees Seventy Five Lakhs only) u/s.114 AA of the Customs Act 1962 on the petitioner and quash the same.

For Petitioner : Mr.Krishnamurthy
for Mr.A.Thirumaran

For Respondent : Mr.A.P.Srinivas,
Standing Counsel

O R D E R

This writ petition is filed challenging the order in original dated 29.04.2019 imposing penalty on the petitioner under Section 114AA of the Customs Act, 1962.

2. Heard Mr.Krishnamoorthy, learned counsel appearing on behalf of the petitioner and perused the materials placed before this Court.

3. Admittedly, as against the order in original, there is a statutory appellate remedy available to the petitioner by filing an appeal before the Commissioner of Customs (Appeals). In this case, it is seen from the affidavit filed in support of this writ petition that the petitioner has already moved a statutory

appeal before the competent authority and that the said authority had sent a communication to the petitioner stating that the petitioner has not deposited the mandatory pre-deposit under Section 128 of the Customs Act. Needless to say that it is for the petitioner to work out his remedy before the Appellate Authority in the manner known to law, especially, when the statutory appeal having been filed by the petitioner before the competent Appellate Authority.

4. The learned counsel for the petitioner submitted that the authorities are not entertaining the appeal, since the petitioner is not in a position to make a pre-deposit.

5. It is totally a different issue, which this Court at this stage cannot consider, as it is for the petitioner to agitate the matter before the concerned authority in accordance with law.

6. Therefore, I find that the present writ petition is totally mis-conceived. Accordingly, this Writ Petition is disposed of, only by directing the petitioner to pursue his remedy before the concerned Appellate Authority. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mk

To

The Additional Commissioner of Customs,
Chennai IV, Chennai.

+1cc to Mr.A.Thirumaran, Advocate, S.R.No.96480

+1cc to Mr.A.P.Srinivas, Advocate, S.R.No.97283

SSD(CO)
CS/17/12/2019

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